

The specification has been amended to remove blank spaces in the disclosure of bacterial strain accession numbers and to submit new drawings in compliance with 37 C.F.R. §1.81. Claims 25, 26, 29, 30, and 33-35 are pending. Claims 1-24, 27, 28, 31 and 32 were cancelled and claims 25, 26 and 35 were amended; the amendments are supported by the specification at, *e.g.*, page 37, lines 1-9; page 64, lines 2-17; Tables 14-15; Figures 9-12; and claims 1 and 27 as originally filed. No new matter has been added by these amendments.

#### The Drawings

The Examiner has indicated that Figures 6-8 are not in compliance with the requirements of 37 C.F.R. §§1.821-1.825. Replacement figures corresponding to Figures 6-8 are filed herewith. By way of the amendment and response filed on June 26, 2002, Applicant amended the specification to include the sequence listing. Thus, this objection has been overcome and can be withdrawn.

#### The Specification

The Examiner has objected to the instant specification for containing sequence disclosures and for containing blank spaces in the disclosure of bacterial strain accession numbers.

As discussed *supra*, Applicant responded to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosure by filing an amendment and response on June 26, 2002. Also, Applicant has amended the specification to remove the blank spaces in the disclosure of bacterial strain accession numbers on pages 6 and 7. Therefore, this objection can be withdrawn.

#### The § 112, second paragraph rejections

Claims 25-30 and 33-35 have been rejected under 35 U.S.C. § 112, second paragraph as being indefinite.

Claim 25 was rejected for depending on a non-elected claim. Claim 25 has been amended to place the claim in independent form and to more clearly define the invention.

Claims 25-28 were rejected as indefinite for the claim phrase "infected site". Claims 27-28 have been cancelled. This rejection is therefore moot in respect to claims 27-28. In regard to the remaining claims, claims 25 and 26 have been amended herein to delete the phrase "infected site." In view of these amendments, Applicant submits that the rejections under 35 U.S.C. § 112 can now be withdrawn.

The 35 U.S.C. § 102(b) rejections

Claims 25-30 and 33-35 were rejected for anticipation by Cavadini et al. (US 5,968,569) and Farmer et al. (WO 98/54982). Claims 27-28 have been cancelled. This rejection is therefore moot in respect to claims 27-28. Claim 25 has been amended to require a method of inhibiting an infection that comprises administering to the gastrointestinal tract of an animal a composition that includes an isolated *Bacillus* strain that produces more lysine aminopeptidase than *Bacillus coagulans* Hammer strain ATCC No. 31284. Similarly, claim 26 has been amended to require the administration to the gastrointestinal tract of an animal a composition that includes an isolated *Bacillus* strain that is *Bacillus coagulans* GBI-1, *Bacillus coagulans* GBI-20, *Bacillus coagulans* GBI-30, *Bacillus coagulans* GBI-40, or a combination thereof. Claims 29-30 and 33-35 depend from claim 26. Therefore, these claims incorporate the amendment to claim 26. Thus, the amended claims are not anticipated by the cited prior art, because Cavadini et al. and Farmer et al. do not teach an isolated *Bacillus* strain that produces more lysine aminopeptidase than *Bacillus coagulans* Hammer strain ATCC No. 31284. This rejection can be withdrawn.

The 35 U.S.C. § 103(a) rejections

Claims 25-29 and 33-35 were rejected for obviousness by Cavadini et al. or Farmer et al. in view of Yanagida et al. and Bergey's Manual. Claims 27-28 have been cancelled. This rejection is therefore moot in respect to claims 27-28. As discussed above, the pending claims have been amended to require a method of inhibiting an infection that comprises administering to the gastrointestinal tract of an animal a composition that includes an isolated *Bacillus* strain that produces more lysine aminopeptidase than *Bacillus coagulans* Hammer strain ATCC No. 31284, and that neither Cavadini et al. nor Farmer et al. teach or suggest an isolated *Bacillus* strain that produces more lysine aminopeptidase than *Bacillus coagulans* Hammer strain ATCC No. 31284. Yanagida et al. and Bergey's Manual do nothing

to cure this deficiency. Yanagida et al. and Bergey's Manual do not describe or suggest an isolated *Bacillus* strain that produces more lysine aminopeptidase than *Bacillus coagulans* Hammer strain ATCC No. 31284; Yanagida discloses one strain of *Bacillus coagulans*, NRIC 1005T, and Bergey's Manual does not disclose a specific strain of *Bacillus coagulans*.

In view of the arguments presented above regarding the combination of Yanagida et al. and Bergey's Manual to Cavadini et al. or Farmer et al., Applicant respectfully requests withdrawal of this rejection.

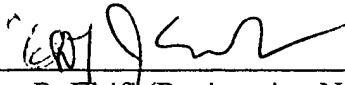
### CONCLUSION

On the basis of the foregoing amendments and arguments, Applicant respectfully submits that the pending claims are in condition for allowance. If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact either of the undersigned at the telephone number provided below.

A Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b) and a Petition for a Four Month Extension of Time, along with the required fees are filed herewith. The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 19374-509.

Respectfully submitted,

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